(1)

Single Bench

(3)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. NO. 77 /2005

PETITIONER :- Budhsen Boudh S/o Jaitram
Aged about 45 years,
R/o Village Sendri, Tah & P.S.
Jaijaipur, Distt. Janjgir-Champa
[C.G.]

VERSUS

RESPONDENTS

1] State of Chhattisgarh,
Through: - Secretary,
Panchayat and Rural
Development Department,
D.K.S. Bhawan Raipur [C.G.]

2] Chhattisgarh Rajya
Nirwachan Ayog, Raipur [C.G.]

3] District Election Officer
[Collector]
Distt. Janjgir-Champa [C.G.]

4] Returning Officer [Panchayat]
Janpad Panchayat Jaijaipur,
Distt. Janjgir-Champa [C.G.]

5] Omprakash S/o Sonauram,
aged about 41 years, R/o
Ward No. 1 Gram Panchayat
Sendri, P.S.H. Jaijaipur, Distt.
Janjgir- Champa [C.G.]

6] Maniram S/o Parasram,
aged about 37, R/o Ward No.
3, Gram Panchayat Sendri,
P.SH. Jaijaipur, Distt. Janjgir-
Champa [C.G.]

7] Tirith Ram S/o Son Sai
aged about 23 year R/o Ward
No.-4, Gram Panchayat
Sendri, P.S.H. Jaijaipur, Distt.
Janjgir- Champa [C.G.]

8] Kholbahra S/o Darshu
aged about 32 years,
R/o Ward No. 5, Gram
Panchayat Sendri, P.S.H.
Jaijaipur, Distt. Janjgir-
Champa [C.G.]

9] Santosh Kumar
S/o Parmeshwar, aged about 18 years R/o Ward No. 12, Gram Panchayat Sendri, P.S.H. Jaijaipur, Distt. Janjgir- Champa [C.G.]

10] Dhanau S/o Parasram, aged about 29 years. R/o Ward No. 3, Gram Panchayat Sendri, P.S.H. Jaijaipur, Distt. Janjgir- Champa [C.G.]

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS OF MANDAMUS OF CERTIORARI AND FOR OTHER SUITABLE WRITS OR DIRECTIONS.

(47)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 77/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	~~19.1.2005~~	

On a mention being made, the case is taken up for hearing.

Shri Rajeev Dwivedi, counsel for the petitioner.

Shri Sumesh Bajaj, counsel for respondent No.1.

Shri V.V.S. Murthy, Senior Counsel with Shri Srinivas Rao, counsel for respondent No.2 to 4.

Shri Rajesh Sharma, counsel for respondent No.5 to 10.

Heard learned counsel for the parties on the question of admission as well as on M.W.P.

The petitioner has preferred this petition under Article 226/227 of the Constitution of India challenging the order dated 29.12.2004 passed by respondent No.3 thereby rejecting the nomination paper of the petitioner for the post of Sarpanch of Gram Panchayat, Sendri.

The case of the petitioner is that he belongs to Other Backward Classes being a converted Buddhist from Scheduled Caste. Conversion certificate is Annexure P-1 and list of other backward classes is Annexure P-2 to the writ petition. The petitioner submitted his nomination form for the post of Sarpanch being an OBC candidate but when symbol was not allotted to him, he approached respondent No.3 on 31.12.2004 and respondent No.3 informed him that his nomination paper has been rejected. Therefore, respondents concerned be directed to consider the case of the petitioner for elections of Gram Panchayat Sendri.

In reply filed by respondent No.2 to 4, it has been mentioned that the post of Sarpanch of Gram Panchayat Sendri is reserved for OBC candidates and petitioner was required to submit a certificate to that effect, but he filed only certificate from Buddhist community, which does not fall within the purview of OBC category. It has been further

GRPRJ—FS/350—12/2000—50,000.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 71/05 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

mentioned in the reply that petitioner was afforded opportunity of hearing before cancellation/rejection of nomination paper and since the petitioner has not submitted any certificate to show that he belongs of backward class community, therefore, the question of allotting any symbol does not arise. Copy of order is Annexure R-1.

Learned counsel for the petitioner submitted that the petitioner is a converted Buddhist from Scheduled Caste and as per list Annexure P-2, the converted Buddhists falls under the category of OBC, whereas contention of Shri Murthy, Senior Counsel for respondent No.2 to 4 is that unless the petitioner submits certificate issued by the competent authority to the effect that he belongs to OBC category, he cannot be considered as backward class and therefore, his nomination paper has been rejected.

The election is scheduled to be held on 23.1.2005 and in this matter disputed facts are involved which cannot be gone into in this writ jurisdiction, therefore, the petitioner is not entitled to get the relief by invoking jurisdiction under Article 226 of the Constitution of India and on this ground alone the petition of the petitioner is liable to be dismissed. Therefore, the petition dismissed at the admission stage itself. However, the petitioner is at liberty to avail alternative remedy available to him under the law.

Consequently, M.W.P. No.71/05 also stands dismissed.

Sd/-
L.C. Bhadoo
Judge

31/1/05